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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF DISAPPEARANCES AND SUMMARY EXECUTIONS

Report of the Working Group on Enforced or Involuntary Disappearances

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Executive summary

The practice of enforced or involuntary disappearances continues in a number of countries. During 2000, the Working Group* transmitted 487 new cases of disappearances which occurred in 29 countries; 120 of these cases occurred in 2000. At the moment, the Working Group has 45,998 outstanding cases on its registers. During 2000, 95 cases were transmitted by the Working Group to the Governments of 20 countries by way of its urgent action procedure. The highest number of cases of enforced or involuntary disappearances in 2000 occurred in Indonesia (29) and India (21).

The process of clarification of cases, especially cases which were transmitted more than 10 years ago, is becoming slower. In spite of cooperation with the Working Group from a large number of countries, the fact remains that the attitude of most Governments towards investigating and clarifying the outstanding cases has not improved. In 2000, out of 24 countries with unclarified cases, the countries which have not communicated at all with the Working Group are as follows: Afghanistan, Bangladesh, Burkina Faso, Burundi, Cambodia, Cameroon, the Congo, Equatorial Guinea, Greece, Kuwait, Lao People's Democratic Republic, Mauritania, Mozambique, Namibia, Seychelles, Uzbekistan and Zimbabwe.

Within this context, the Working Group wishes to express its great appreciation to the Government of Sri Lanka for its intense activities to clarify the outstanding cases. During 2000, the Government sent to the Working Group more than 6,000 responses to cases for clarification, most of them with legal certificates of presumption of death and indications of compensation given to the families, in accordance with the Working Group's mandate and its methods of work.

In its report, the Working Group recommends to the Commission on Human Rights that it should call upon all the States with outstanding cases of enforced or involuntary disappearances to adopt more adequate measures to speed up the process of clarification of cases.

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* Since its creation in 1980, the Working Group has submitted a report annually to the Commission on Human Rights, starting at the Commission's thirty-seventh session. The document symbols of the previous 20 reports are as follows: E/CN.4/1435 and Add.1; E/CN.4/1492 and Add.1; E/CN.4/1983/14; E/CN.4/1984/21 and Add.1 and 2; E/CN.4/1985/15 and Add.1; E/CN.4/1986/18 and Add.1; E/CN.4/1987/15 and Add.1 and Corr.1; E/CN.4/1988/19 and Add.1; E/CN.4/1989/18 and Add.1; E/CN.4/1990/13; E/CN.4/1991/20 and Add.1; E/CN.4/1992/18 and Add.1; E/CN.4/1993/25 and Add.1; E/CN.4/1994/26 and Add.1 and Corr.1 and 2; E/CN.4/1995/36; E/CN.4/1996/38; E/CN.4/1997/34; E/CN.4/1998/43; E/CN.4/1999/62 and Add.1 and 2; and E/CN.4/2000/64 Corr. 1 and 2 and Add.1. The relevant resolution of the Commission adopted at its fifty-sixth session is resolution 2000/37.

The report also points out that impunity continues to be one of the main causes of disappearances and also the major obstacle in the process of clarification of cases. The Working Group reiterates that the Declaration on the Protection of All Persons from Enforced Disappearance obliges all States to declare all acts of enforced disappearance as offences in their domestic criminal law, to investigate promptly and thoroughly all allegations of enforced disappearance and to bring the perpetrators to justice.

The Working Group expresses again its serious concern about its inability, with the present limited financial resources and seriously limited staff, to carry out in the future the various tasks assigned to it by the Commission.

Introduction

1. The present report of the Working Group on Enforced or Involuntary Disappearances is submitted pursuant to Commission on Human Rights resolution 2000/37.

2. In addition to its original mandate, which is to act as a channel of communication between the families of disappeared persons and the Governments concerned, with a view to ensuring that sufficiently documented and clearly identified individual cases are investigated and the whereabouts of the disappeared persons clarified, the Working Group has been entrusted by the Commission with various other tasks. In particular, the Working Group is to provide appropriate assistance in the implementation by States of the Declaration on the Protection of All Persons from Enforced Disappearance (hereafter referred to as the Declaration) and of the existing international rules.

3. The number of countries with outstanding cases of alleged disappearance was 73 in 2000. During the period under review, the Working Group transmitted 487 new cases of disappearance to 29 countries, 120 of which allegedly occurred in 2000. The total number of cases transmitted by the Working Group to Governments since the Group's inception stands at 49,[5]16. The total number of cases being kept under active consideration, as they have not yet been clarified, now stands at 45,998.

4. As in previous years, the Working Group has continued to apply the urgent action procedure in cases that allegedly occurred within the three months preceding the receipt of a complaint. This year the Working Group sent urgent action appeals in respect of 95 cases to the Governments of 20 countries.

5. The Working Group regrets that out of the 24 countries with unclarified cases, the Governments of 17 countries have not communicated at all with the Group during the period under review.

6. As in the past, the present report reflects only communications or cases examined before the last day of the third annual session of the Working Group, which was 24 November 2000. Urgent action cases which may have to be dealt with between that date and the end of the year, as well as communications received from Governments and processed after 24 November 2000, will be reflected in the Working Group's next report.

7. Owing to serious limitations in its staff and resources, together with the requested reduction of pages of this report, the Working Group has not been able to include in the present report some very important sections.

8. During the last few years the Working Group has faced very serious shortages in the staff servicing its mandate, rendering it almost impossible for the Group to complete all its tasks in an adequate manner. Therefore, the Working Group again expresses serious concern about its ability, with the present limited financial and human resources, to carry out in the future the various tasks assigned to it by the Commission on Human Rights. The Working Group again expresses its deep appreciation of the work of its staff, which was carried out in spite of the difficulties referred to above.

9. In accordance with the directive received by the Working Group from the General Assembly, (resolutions 37/14 C of 16 November 1982 and 47/202 B of 22 December 1992) to reduce the length of its reports, the following format was established in 1999:

Category A: Countries with new cases of disappearances or clarifications;

Category B: Countries regarding which the Working Group received comments from Governments and non-governmental organizations;

Category C: Countries regarding which the Working Group received no information or comments.

I. ACTIVITIES OF THE WORKING GROUP IN 2000

A. Meetings

10. The Working Group held three sessions in 2000. Its sixtieth session was held at United Nations Headquarters from 24 to 27 April, and the sixty-first and sixty-second sessions were held at the United Nations Office at Geneva from 21 to 25 August and from 15 to 24 November, respectively. During these sessions, the Working Group met with official representatives of the Governments of Angola, Belarus, Lebanon, Mexico and the Sudan.

11. In addition, the Working Group met with representatives of human rights organizations, associations of relatives of missing persons, and families or witnesses directly concerned with reports of enforced disappearances.

12. By letter dated 19 November 1997, the Government of the Islamic Republic of Iran invited the Working Group to visit that country. The Working Group accepted the invitation and a mutually convenient date is being sought. By letter dated 25 August 2000, the Working Group asked the Government of the Islamic Republic to suggest possible dates for such a visit.

13. As reported last year (E/CN.4/2000/64, para. 12), to date the Working Group has received no reply from the Government of Iraq to its letter dated 21 July 1995 requesting a visit.

14. By letter dated 25 August 2000, the Working Group expressed to the Government of Algeria its interest in visiting that country. The Working Group considers that the visit could contribute to the current efforts being carried out to determine the fate or whereabouts of the persons reported as disappeared, as well to preventing new cases. A reply is still awaited.

15. On 30 March 1995, the Government of Colombia invited the Working Group to visit the country. Unfortunately, a mutually acceptable date for the visit could not be set. The Working Group has asked the Government of Colombia again to suggest possible dates for the visit.

B. Communications

16. During the period under review, 4 December 1999 to 24 November 2000, the Working Group transmitted 487 new cases of enforced or involuntary disappearance to the Governments of Algeria, Argentina, Belarus, Burundi, Cameroon, Chad, Colombia, the Congo, the Democratic Republic of the Congo, Ethiopia, India, Indonesia, Lebanon, Mexico, Morocco, Namibia, Nepal, Pakistan, Peru, the Russian Federation, Rwanda, Sri Lanka, Turkey, Ukraine, the United Republic of Tanzania, Uzbekistan, Venezuela, Yugoslavia and Zimbabwe. Of these, 95 cases were sent under the urgent action procedure.

17. Of the newly reported cases, 120 allegedly occurred in 2000 and relate to Algeria, Argentina, Colombia, the Democratic Republic of the Congo, India, Indonesia, Mexico, Morocco, Nepal, Pakistan, Peru, the Russian Federation, Rwanda, Sri Lanka, Ukraine, the United Republic of Tanzania, Uzbekistan, Yugoslavia and Zimbabwe.

18. During the same period, the Working Group clarified 531 cases concerning Algeria, China, Chile, Colombia, the Democratic Republic of the Congo, India, Mexico, Nepal, Peru, the Russian Federation, the United Republic of Tanzania, Sri Lanka and the Sudan.

19. As in previous years, the Working Group received reports and expressions of concern from non-governmental organizations, associations of relatives of disappeared persons and from individuals about the safety of persons actively engaged in the search for missing persons, in reporting cases of disappearance or in the investigation of cases. In some countries, the mere fact of reporting a disappearance entailed a serious risk to the life or security of the person making the report or to his or her family members. In addition, individuals, relatives of missing persons and members of human rights organizations were frequently harassed and threatened with death for reporting cases of human rights violations or investigating such cases.

20. The Working Group continues to address itself to the ever-increasing number of United Nations field operations with human rights components and field offices of the Office of the High Commissioner for Human Rights, in an effort to take advantage of their unique position on the ground in order to improve its information flow with regard to disappearances.

C. Methods of work

21. During its sixty-second session, the Working Group met with the representatives of several non-governmental organizations at their request to discuss and or review its methods of work. The NGO representatives stated that the Working Group should strengthen its dialogue and working relations with the associations of relatives of missing persons and other human rights organizations in order to attain the common objective of eradicating enforced disappearance. When the Working Group did not accept a case, it should write to the source explaining that the information received did not fulfil the established requirements; in that way the source could complete the report. The Working Group should submit once a year to the sources an updated list of unresolved cases and twice a year, a list of cases communicated to Governments through the urgent action procedure.

22. A number of NGO representatives were of the view that following judicial declarations of presumption of death, efforts should still be made to locate the victim's corpse and carry out a forensic examination as it was part of the humanitarian mandate of the Working Group not only to ensure that the family was informed and compensated, but also to reveal the place of burial to the family.

23. Many representatives of non-governmental organizations, including the Asian Federation against Involuntary Disappearances (AFAD), the Latin American Federation of Associations of Relatives of Disappeared Detainees (FEDEFAM), the International Service for Human Rights and the International Association for Human Rights Nydia Erika Bautista, stated that the Working Group, before deciding to discontinue or clarify a case should make every effort to investigate the reasons behind the action or inaction of the source or the family concerned; there should be tighter restrictions on decisions to discontinue a case because a source has failed to respond. Lastly, they stated that the Working Group should take the initiative with respect to country visits and conduct follow-up missions to countries visited in the past and where specific recommendations were made.

D. Comments on the draft international convention on the protection of all persons from enforced disappearance

24. During its sixtieth session, the Working Group adopted several comments on the draft international convention on the protection of all persons from enforced disappearance (E/CN.4/Sub.2/1998/19, annex) transmitted to the Commission on Human Rights by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in its resolution 1998/25. Those comments were sent to the Secretary-General in accordance with the request contained in Commission on Human Rights resolution 2000/37 (see annex III).

E. Implementation of the Declaration on the Protection of All Persons from Enforced Disappearance: general comment on article 17 of the Declaration

25. With a view to focusing the attention of Governments more effectively on the relevant obligations deriving from the Declaration, the Working Group, in the light of its experience with communications with Governments, decided to adopt general comments on those provisions of the Declaration that might need further explanation.

26. At its sixty-first session, the Working Group adopted the following general comments on article 17 of the Declaration. Article 17 of the Declaration reads as follows:

> "1. Acts constituting enforced disappearance shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared and these facts remain unclarified.
>
> "2. When the remedies provided for in article 2 of the International Covenant on Civil and Political Rights are no longer effective, the statute of limitations relating to acts of enforced disappearance shall be suspended until these remedies are re-established.
>
> "3. Statutes of limitations, where they exist, relating to acts of enforced disappearance shall be substantial and commensurate with the extreme seriousness of the offence."

27. Article 17 establishes fundamental principles intended to clarify the nature of enforced disappearances and their criminal consequences. The sense and general purpose of the article is to ensure conditions such that those responsible for acts constituting enforced disappearance are brought to justice within a restrictive approach to statutory limitations. Article 17 is complemented by the provisions of articles 1, 2, 3 and 4 of the Declaration.

28. The definition of "continuing offence" (para. 1) is of crucial importance for establishing the responsibilities of the State authorities. Moreover, this article imposes very restrictive conditions. The article is intended to prevent perpetrators of those criminal acts from taking advantage of statutes of limitations. It can be interpreted as seeking to minimize the advantages of statutes of limitations for the perpetrators of these criminal acts. At the same time, as the criminal codes of many countries have statutes of limitations for various offences, paragraph 2 stipulates that they shall be suspended when the remedies provided for in article 2 of the International Covenant on Civil and Political Rights are no longer effective. The Covenant refers in particular to the possibility of having "an effective remedy" when a human rights violation "has been committed by persons acting in an official capacity".

29. In its decisions the Inter-American Court of Human Rights repeatedly expresses views wholly consistent with the provisions of article 17. In its judgement of 29 July 1988 in the Velásquez Rodríguez case and in the Blake case, the Court derived from the continuing nature of the enforced disappearance itself the obligation upon the State to investigate until the whereabouts of the victim were established (para. 181). In justifying its decision in the latter case, the Court, in its judgement of 2 July 1996, referred explicitly to article 17 of the Declaration (para. 37). In a separate opinion, Judge Antonio Cancado Trindade, who concurred with the content and sense of the judgement, said that the offence was a "continuing situation" inasmuch as it was committed not instantaneously but continously and extended over the entire period of the disappearance (para. 9); the separate opinion cites cases of the European Court of Human Rights in which the idea of a "continuing situation" also was considered (De Becker v. Belgium (1960) and Cyprus v. Turkey (1983)).

30. To the international jurisprudence, which on several occasions refers to article 17, must be added the proceedings of national courts which, on the basis of the same interpretation, have assumed jurisdiction over acts of enforced disappearance, including within the context of amnesties. During the course of 2000, several judicial proceedings have been instituted in Chile, for example, concerning cases of enforced disappearance that occurred before the 1978 Amnesty Act, precisely on the basis of the assumption that the notion of a "continuing situation" is inherent in the very nature of enforced disappearance.

31. Owing to the seriousness of acts of enforced disappearance a number of irrevocable rights are infringed by this form of human rights violation, with obvious consequences in criminal law. Recent developments in international law require clear priority to be given to action against the serious forms of violations of human rights in order to ensure that justice is done and that those responsible are punished. Thus, according to article 1 (2) of the Declaration, "Any act of enforced disappearance ... constitutes a violation of the rules of international law guaranteeing, inter alia, the right to recognition as a person before the law, the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. It also violates or constitutes a grave threat to the right to life".

32. The interpretation of article 17 must be consistent with the provisions of articles 1 (1), 2 (1), 3 and 4 of the Declaration, which seek to punish these crimes severely in order to eradicate the practice. This explains and justifies the restrictive approach to the application of statutes of limitation to this type of offence. Thus, article 1 (1) stipulates that "Any act of enforced disappearance is an offence to human dignity. It is condemned as a denial of the purposes of the Charter of the United Nations and as a grave and flagrant violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and reaffirmed and developed in international instruments in this field". For its part, article 2 (1) specifies that "No State shall practise, permit or tolerate enforced disappearances", while, according to article 3, "Each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction". The need for severe punishment is clearly established in article 4 (1) which reads: "All acts of enforced disappearance shall be offences under criminal law punishable by appropriate penalties which shall take into account their extreme seriousness".

II. COUNTRIES WITH NEW CASES OF DISAPPEARANCES OR CLARIFICATIONS

Algeria

33. The Working Group transmitted 217 newly reported cases to the Government, none of which occurred in 2000. During the reporting period, the Working Group clarified two cases on the basis of information previously submitted by the Government on which no objection was received from the source. In both cases the persons concerned were killed during armed confrontations with security forces. Their corpses were buried in Magra cemetery, Wilaya, an administative decision, of M'sila and in the cemetery of Bougaa.

34. The Working Group received information from non-governmental organizations concerning non-compliance by the Government of Algeria with provisions of the Declaration. It was said that impunity remained a major concern. Despite promises made in 1998 by the Government, no concrete measures were taken by the authorities to investigate the fate or whereabouts of the persons disappeared since 1992, or to bring those responsible to justice. The Working Group was also informed that the security forces broke up violently demonstrations organized by mothers of the disappeared. However, there were fewer reports of prolonged incommunicado detention beyond the 12-day limit permitted by law.

35. Concern was also expressed regarding the fact that a large number of wives of disappeared persons could neither legally prove that their husbands were dead nor enjoy their status as married women. It was said that it was necessary to simplify the legal procedure for the declaration of presumption of death, so that spouses can obtain custody of their children and dispose of property to which they are entitled.

36. The Government also provided information on 157 cases. The responses were diverse: the missing persons had not been questioned, apprehended or arrested; investigations were continuing to locate the missing persons; the missing persons had been released after having served a sentence; and the missing persons were wanted by the security services because of their

involvement in criminal activities. In one case the Government reported that the missing person had been found in prison but did not provide any details about the location of the prison. The Government reiterated its willingness to continue to cooperate with the Working Group.

Argentina

37. During 2000, the Working Group transmitted two newly reported cases of disappearance to the Government, both of which occurred in March 2000 and were sent under the urgent action procedure. The two cases concerned persons who were arrested in the city of Mendoza by members of the local Police Investigation Office (Dirección de Investigaciones de la Policía). One of them had previously received death threats from a member of the local Police Investigation Office.

Burundi

38. The Working Group transmitted one newly reported case of enforced disappearance to the Government which occurred in 1996. The case concerns a teacher who was reportedly abducted by agents of the security services and taken away to an unknown destination.

Cameroon

39. The Working Group transmitted three newly reported cases of disappearance to the Government which occurred in September 1995. The cases concern three members of the Southern Cameroon National Council who were detained by members of the National Gendarmerie Brigade of Mbango and taken away to an unknown destination.

Chad

40. During the period under review, one new case of disappearance was transmitted by the Working Group to the Government. It concerns a person who was arrested on 26 December 1999 in N'Djaména by members of the Groupement de la sécurité présidentielle. No information was provided by the Government concerning this case.

Chile

41. The Working Group clarified four cases on the basis of information previously submitted by the Government on which no observations were received from the source within the period of six months. The corpses of the victims were exhumed and identified by experts of the Forensic Medical Service and were handed over to their relatives for burial. Some of the victims were killed in the context of repression known as the "Death Caravan". According to the Government's statement, General Sergio Arellano Stark, in his capacity as Delegate of the Commander-in-Chief of the Army and of the Governing Junta, led a group of officers who flew to various cities in the country in a helicopter and killed a total of 72 persons in extrajudicial executions devoid of any legal process. Other corpses exhumed could not immediately be identified owing to their advanced state of decomposition, although DNA tests will be carried out.

42. The Government reported that 108 tombs had been excavated in plot 29 of the public cemetery of Santiago, revealing 125 skeletons which were handed over to the Forensic Medical Service. As a result of the relevant examinations, 94 corpses have been identified to date, allowing the deaths to be officially recorded; 18 are skeletons of persons who died in 1973. In these cases the relatives either did not know that they had been buried in plot 29 or were not given the remains for burial. Thirty-one other skeletons are still to be identified.

43. Special concern was expressed by several non-governmental organizations regarding the continued applicability of the 1978 Amnesty Act, the extensive jurisdiction of military courts and the inadequate progress achieved in investigations into cases of enforced or involuntary disappearances which had occurred during the military rule. Although some progress was reported in the year 2000, much remained to be done to establish the truth regarding the fate and whereabouts of the disappeared persons.

44. Concern was also expressed regarding death threats and acts of intimidation and harassment against members of associations of relatives of disappeared persons and non-governmental organizations, such as the Agrupación de Familiares de Detenidos Desaparecidos and the Corporación de Promoción y Defensa de los Derechos del Pueblo.

China

45. No new cases of disappearance were transmitted by the Working Group to the Government. The Working Group clarified two cases on the basis of information previously submitted by the Government on which no observations had been received from the source. One concerns an ethnic Tibetan, a former deputy editor of a publishing house, who was detained in January 1997 on suspicion of espionage. He was found not guilty and was released on the spot and is now living at liberty. The other person was found serving his sentence in the Tibet Autonomous Region Prison after having been found guilty of separatist activities.

Colombia

46. The Working Group transmitted 15 newly reported cases to the Government. During the same period, the Group clarified 22 cases on the basis of information provided by the Government on which the sources did not make any observations during the six-month period. In 17 cases, the missing persons were released by their captors, members of paramilitary groups, and were living at liberty. In two other cases, the corpses of these persons were found. Three other persons were handed over to a commission of the International Committee of the Red Cross (ICRC) in Doradal, Department of Antioquia.

47. The newly reported cases transmitted occurred in 2000 mainly in Finca La Galleta, Montebello, Department of Antioquia; Minitas, Granada, also in the Department of Antioquia; Bugalagrande, Department of Cauca; Cabito, Bajo Baudo, Department of Choco and in the Department of Santander. Most of the abductions and detentions leading to disappearances were carried out by members of paramilitary groups whose actions were believed to have been either undertaken in complicity with, or supervised by members of the security forces, very often in areas of heavy military presence. One victim was a leader of the Bugalagrande Township Workers' Union (SINTRAMUNICIPIO). Another victim was the President of the Colombian

University Workers and Employees Union (SINTRAUNICOL). Other victims were a leading member of a teachers' union, a member of the indigenous community of Embera-Katio, and two members of the Association of Families of Disappeared Persons.

48. During the period under review, the Government made reference to 22 outstanding cases. Most of the communications contained details of legal proceedings carried out by various authorities dealing with the cases or requests for additional information. In several cases the Government reported that the officer assigned to the case had ordered the provisional suspension of the investigation on the grounds that it had not been possible to identify those responsible or to locate the whereabouts of the missing person. The Government also reported that the Congress had approved a bill which defined the crime of enforced disappearance and established severe penalties.

49. The Working Group was informed by several non-governmental organizations that the practice of impunity persisted in Colombia. Officers of both the armed forces and the police forces, and especially personnel belonging to paramilitary organizations acting with the consent or approval of the security forces, continued to commit serious human rights violations, particularly enforced disappearances, in the course of operations conducted against drug traffickers and against armed opposition groups, such as the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN). Paramilitary organizations like the self-styled United Self-Defence Groups of Córdoba and Urabá were continuing their activities, despite the fact that they had been declared illegal in 1989 and that the Government had issued express orders to the armed forces to fight and neutralize them.

50. Concern was also expressed for the safety of members of human rights organizations, particularly ASFADDES and the Andean Commission of Jurists Colombian Section, who were still exposed to acts of intimidation, harassment and reprisals.

51. It was also reported that little progress had been achieved in the clarification of cases of enforced or involuntary disappearance. Investigations carried out by the Department of Public Prosecution and the courts tended to be closed when it proved impossible to identify the perpetrators. Thus, few of those responsible for acts of enforced disappearance had ever been brought to trial.

52. Lastly, non-governmental organizations also reported that the Government had failed to follow up most of the recommendations put forward by the Working Group during its visit to Colombia in 1988, particularly those referring to the habeas corpus remedy and the continued practice of investigation and judgement of cases of enforced disappearances by military courts.

Congo

53. The Working Group transmitted 31 newly reported cases of disappearance to the Government, all of which occurred between May and August 1999. Most of them concern people who were separated from a convoy returning to Brazzaville from the Democratic Republic of the Congo and taken by members of the security forces for interrogation. Their whereabouts remain unknown. Other victims were arrested by police officers at their homes in the presence of their relatives and taken to an unknown destination.

Democratic Republic of the Congo

54. The Working Group transmitted a new case of disappearance to the Government under the urgent action procedure. It concerns the disappearance of the Archbishop of Bukavu after being detained at Goma airport in February 2000 upon returning from Kinshasa. The case was subsequently clarified on the basis of information submitted by the source reporting that the person had been released.

Ethiopia

55. The Working Group transmitted one newly reported case of disappearance to the Government, which allegedly occurred in 1995. It concerns an Ethiopian student who was detained by the armed forces.

India

56. The Working Group transmitted 27 newly reported cases to the Government, 21 of which occurred in Kashmir in 2000. Four persons allegedly disappeared after having been detained in Assam, one in Sipajhar and one in Udalguri. In one case, the Guwahati High Court ordered the army authorities to hand over the detainee to the police and produce him before a magistrate. The order was not respected. Two of the missing persons were reportedly seen in detention and being tortured in the 15th Dogra Regiment Camp and in the Dhekiajuly Army Camp.

57. The Government provided information on nine cases. Three cases were subsequently considered clarified given that the sources made no observations to the responses provided by the Government. In one case the corpse of the missing person had been found and handed over to his legal heirs for last rites. In two cases the disappeared persons had been released on bail and were residing at their homes. In five cases the information provided by the Government was considered insufficient to consider them clarified. Another case was made subject to the six-month rule.

58. During the period under review, information concerning developments in India having an influence on the phenomenon of disappearance and the implementation of the Declaration on the Protection of All Persons from Enforced Disappearance was received from non-governmental organizations. It was reported that the failure by the Government to systematically investigate a pattern of grave human rights violations, including cases of enforced or involuntary disappearance in Punjab during the 1980s and early 1990s, had led to a climate of impunity for officers of the police force as well as to continuing illegal actions by police. It was said that attempts by human rights organizations in Punjab to seek justice for victims of enforced disappearance and their relatives had been met with intimidation, harassment and official obstruction of redress.

59. It was reported that the fate of hundreds of victims of enforced or involuntary disappearance in other parts of India, such as Assam and Manipur, remained unknown. Their relatives continued to fight for justice. Impunity is said to prevail in Manipur. The Assam and Manipur Special Powers Act of 1958 reportedly confers on the armed forces broadly defined virtual immunity from prosecution.

60. There also appeared to be a steady increase in the number of cases of enforced or involuntary disappearance in Jammu and Kashmir, after a decline over the past three years. Many of the victims appear to be ordinary citizens picked up at random, without any connection to the current armed struggle. The victims include businessmen, lawyers, labourers and teachers and people of all ages, including children. Allegations were also received according to which people are being held in long-term unacknowledged detention in interrogation centres and transit camps in Jammu and Kashmir and in the north-east of the country.

61. Lastly, it was said that few of the habeas corpus petitions filed by families of the disappeared before the judiciary have been brought to a final resolution. It was reiterated that the climate of impunity prevailing in Jammu and Kashmir allows those responsible for acts of enforced disappearance to avoid legal consequences and facilitates further human rights violations.

Indonesia

62. The Working Group transmitted to the Government 37 newly reported cases of disappearance, 29 of which occurred in 2000 and 8 in 1999. The cases which occurred in 2000 were sent under the urgent action procedure and took place in Bireun, North Aceh and the subdistrict of Glumpang Tiga, Pidie district, Aceh. Twenty-four persons were detained in Glumpang Tiga after the security forces were attacked by armed civilians. Their detentions were not acknowledged. Two persons were detained after being shot by members of the security forces, who reportedly were conducting a "sweep operation" looking for supporters of the Free Aceh Movement (GAM). Volunteers from the human rights organization People's Crisis Centre were prevented from going to the area of the Matang Kuli subdistrict to investigate the disappearances. Another person was detained by members of the Police Mobile Brigade (BRIMOB) as he was making his way home. Police authorities at the provincial police headquarters acknowledged his detention, but said to his parents that their son had been released. In another incident, the Police Sector Chief of Dewantara denied knowledge of the whereabouts of a person who had been detained by members of BRIMOB because his motorbike had been involved in an armed attack. The cases corresponding to 1999 took place in East Aceh, West Aceh and West Timor.

63. The Working Group was informed that enforced or involuntary disappearances continue to occur in Indonesia, particularly in areas where there are strong independence movements and where security forces engage in counter-insurgency operations, such as Aceh and Papua. It was said that in Aceh, many civilians have been arrested by soldiers and police officers ostensibly trying to capture suspected members of GAM. Between 1989 and 1998, Aceh was designated an area of special military operations (Daerah Operasi Militer, DOM). Although Aceh's DOM status was lifted in August 1998, in December of the same year human rights violations by the army and the security forces escalated once again, following a series of armed attacks. During military operations, many people in military or police custody disappeared.

64. Lastly, it was alleged that relatives of victims of enforced disappearance, as well as human rights defenders and humanitarian workers, have been subjected in Aceh to acts of intimidation, harassment and reprisals.

65. Concerning the situation in Aceh, on 24 November 2000 the Government reported that it is strongly committed to documenting cases of human rights violations, including enforced disappearances, which took place in Aceh both during and after DOM status was invoked for the province. Those suspected of human rights violations would be tried retroactively. On 6 November 2000, the Parliament approved the establishment of a national human rights tribunal. The Government and the Parliament are in the process of granting special autonomous status to the province. The People's Consultative Assembly issued Decree No. IV/MPR/2000 on recommendations regarding policy and implementation of the regional autonomy framework. As a part of its comprehensive approach, the Government and the Free Aceh Movement signed a Joint Understanding on Humanitarian Pause for Aceh on 12 May 2000, which was extended until 15 January 2001. The main goals of the Understanding are to deliver humanitarian assistance to those affected by the conflict and to promote confidence-building measures.

66. The Government reported it had revoked the DOM status of Papua province in August 1998 and was in the process of granting it special autonomous status which will encompass wide-ranging rights of local governance and a greater share in the revenues accrued from the exploitation of the province's natural resources.

Lebanon

67. The Working Group transmitted 18 newly reported cases to the Government which occurred between 1975 and 1985. Those responsible for the disappearances were reportedly the Lebanese army, the security forces and the Falangist militia. Most of the cases occurred in Beirut and its suburbs.

68. During its sixty-second session, a representative of the Government informed the Working Group that the Government had adopted the recommendations formulated by a national commission set up at the beginning of the year to investigate the cases of enforced or involuntary disappearances. Accordingly, 2,046 verified cases of enforced disappearance would be clarified within the existing legal procedures. Judicial certificates of presumption of death would be issued and adequate financial compensation would be paid to the relatives of the missing persons.

Mexico

69. The Working Group transmitted four newly reported cases of disappearance to the Government, two of which occurred in 1999 and two in 2000. All the cases were sent under the urgent action procedure. During the same period, the Working Group clarified nine cases on the basis of information previously provided by the Government on which the sources had not made observations within the six-month period. The Working Group also decided to discontinue consideration of two cases, since the mothers of the missing persons stated their desire not to pursue the issue any further.

70. The newly reported cases occurred in the States of Guerrero, Hidalgo and Mexico. Members of the Judicial State Police and of the Public Security Police were mentioned as responsible.

71. Representatives of the Mexican National Commission on Human Rights met with the Working Group at its sixtieth and sixty-second sessions and reiterated their desire to continue to cooperate with the Group. They reported that between 21 July 2000 and 3 October 2000, a total of 18 working missions had been carried out by the National Commission to 11 States of the Federation. Two investigators had taken part in each visit, which lasted for a period of approximately five days.

72. The Working Group clarified nine cases on which the sources had not made observations within the six-month period. In four cases, it was reported that the persons concerned had been found in detention at the Social Readaptation Centres of Tecpan de Galeana, Guerrero, Coyuca de Catalán, Guerrero, and Acapulco, Guerrero. They had been accused of homicide, kidnapping and carrying unlicenced firearms. Two prisoners stated that they had been physically and psychologically tortured after their arrest and their cases were sent to the Special Rapporteur on the question of torture. Five other persons were found living at liberty.

73. The Working Group was informed that owing to an amendment to article 102, section B, of the Mexican Constitution, the Congress had decided on 11 November 1999 to designate a new President of the National Commission on Human Rights.

74. Special concern was expressed by several non-governmental organizations regarding the perpetuation of the practice of enforced or involuntary disappearance in the States of Chiapas, Guerrero and Oaxaca, especially in the course of the struggle against the insurgency and operations against drug trafficking. It was reported that government forces still had to face sporadic attacks attributed to armed opposition groups, the self-styled Revolutionary Army of the Insurgent People, the Popular Revolutionary Army and the Zapatista National Liberation Army. Complaints were further expressed about the persistence of the practice of arbitrary detentions of short duration, during which detainees were removed from the protection of their relatives and deprived of access to lawyers or doctors. It was emphasized that the practice facilitated the use of ill-treatment and torture against detainees and their subsequent disappearance.

75. Concern was expressed about the impunity allegedly generated by the inefficiency and ineffectiveness of the judicial system and the lack of independence of the Procurator's Office from the executive branch, at both state and federal levels, as well as by the corruption and lack of sufficient training affecting personnel of the Judicial Police. It was said that the true facts of cases were only rarely ascertained, while convictions of those responsible were even fewer.

76. Special concern was also expressed regarding threats and acts of intimidation and harassment against members of associations of relatives of disappeared persons and non-governmental human rights organizations, such as the Eureka Committee and the Miguel Agustín Pro Juárez Human Rights Centre.

77. A positive aspect, and one in conformity with the terms of the Declaration on the Protection of All Persons from Enforced Disappearance, was the modification of the Penal Code of the Federal District, approved by the Legislative Assembly of the Capital (Mexico City) on 19 August 2000, establishing prison sentences of between 15 and 40 years for civil servants or members of the security forces found guilty of enforced disappearances. It was also stated,

however, that no progress had been observed in terms of introducing the offence of enforced disappearance in federal legislation or the establishment of penalties appropriately reflecting the seriousness of such an offence.

Morocco

78. The Working Group transmitted three newly reported cases to the Government, two of which reportedly occurred in Rabat in 1979. Members of the Secret Services were mentioned as responsible. One case reportedly occurred in September 2000 at the airport of Laayoune and was transmitted by the urgent action procedure.

Namibia

79. The Working Group transmitted one newly reported case of disappearance to the Government, which occurred in 1999. It concerns a human rights activist, member of the Namibian National Society for Human Rights, who was detained following the imposition of a state of emergency in the Caprivi region and taken to an unknown destination.

Nepal

80. The Working Group transmitted 35 newly reported cases to the Government, 32 of which occurred between 1998 and 1999 and 3 in 2000. Two of the victims were a civil engineer and member of the All Nepal Nationalities Organization and a lecturer in English at the Nepal Lok campus of Tribhuvan University. They were released from the Central Jail in Kathmandu on the orders of the Supreme Court but were immediately rearrested and forced into a police van outside the jail. The Government reported that these two persons were not under detention.

81. Another victim was rearrested by a group of about 15 police officers in June 2000 at Butwal Appelate Court, immediately after the Court had ordered his release. He was taken away in a vehicle with covered number plates. In another incident, which took place in April 2000, a woman, five months pregnant, was rearrested in Morang prison by members of the police shortly after a chief district officer had ordered her released on bail.

82. Five cases were transmitted under the urgent action procedure. The Working Group decided to consider one case clarified on the basis of information provided by the Government which was subsequently confirmed by the source. Another case was clarified on the basis of information provided by the source according to which the missing person had been released from prison in July 2000 and was now living at liberty.

83. Non-governmental organizations informed the Working Group that the pattern of enforced disappearance which emerged during 1998 had continued. Police officers in civilian clothes were forcing people into vehicles with black-tinted windows and without number plates, taking them to unofficial places of detention like the Maharajgunj Police Training Centre. The victims are suspected members of the Maoist Communist Party of Nepal, which declared a "people's war" in February 1996.

84. Concern was also expressed regarding the use of the Public Security Act, which allows preventive detention for up to 90 days, in order to maintain public order under detention orders issued by local authorities. The Ministry of the Interior can extend this period for a further 90 days and an Advisory Board established under the Act can order a further extension to 12 months. It was alleged that the Public Security Act is being used to justify the repeated rearrest of people suspected of being members or sympathizers of the armed organization called the Communist Party of Nepal (CPN). Several people were rearrested by police on court premises immediately after the court had ordered their release.

Pakistan*

85. One newly reported case of disappearance was sent to the Government. The new case occurred in February 2000 and was sent under the urgent action procedure. It concerns a person who was arrested at Latifabad, Hyderabad, by plain-clothes law enforcement officers and taken to the Gulshan-e-Haali police station. However, the police denied that the individual in question was being detained and his whereabouts remain unknown.

Peru

86. Two new cases were transmitted to the Government, both of which were sent under the urgent action procedure. The two cases were subsequently clarified on the basis of the information provided by the source stating that the missing persons had been found in detention and were subsequently released. The two newly reported cases occurred in June 2000 in Lima.

87. Serious concern was expressed to the Working Group at the number of cases of enforced or involuntary disappearance in Peru in which the fate of the victim remains unknown and in which the perpetrators have not been brought to justice. Concern was also expressed at the lack of investigation and response by the Government concerning the thousands of cases transmitted by the Working Group in the past.

88. Several non-governmental organizations claimed that the Amnesty Act promulgated in 1995 legalized impunity for human rights violations committed between 1980 and 1995 by civil servants and members of the armed and security forces. The practical effect of that law was said to prevent the relatives of disappeared persons and other victims of human rights violations from finding out the truth and receiving just and adequate compensation for the suffering to which they had been subjected.

89. Special concern was again expressed regarding the decision of the Government of Peru to withdraw from the jurisdiction of the Inter-American Court of Human Rights, with immediate effect. It was said that by that act the Government was denying Peruvian citizens the benefit of independent, international judicial scrutiny, as the national courts were not able, in most cases, to provide effective remedies.

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* Mr. Agha Hilaly did not participate in the decisions relating to this subsection of the report.

Russian Federation

90. Eighteen newly reported cases of disappearance were transmitted to the Government. Two cases were transmitted under the urgent action procedure. One case concerns a journalist who was detained in Chechnya in January 2000 by Russian soldiers. This case was subsequently clarified on the basis of information received from the source according to which the person had been released. Another case concerns the Speaker of the Chechen Parliament of the Russian Federation who disappeared in September 2000. The Government subsequently informed the Working Group that a number of investigative actions and police inquiries were being undertaken to determine who organized and carried out the abduction and ascertain the person's whereabouts. The other cases occurred in January and March 2000 and concerned persons who were detained at a Russian army checkpoint located between Chiri-Yurt and Duba-Yurt villages in Chechnya. Soldiers of the 245th armoured infantry regiment were said to be responsible. Three of the victims were detained at the checkpoint while they were evacuating wounded women and children in a car. The car was later found abandoned in a field.

91. Particular concern was expressed by two non-governmental organizations regarding the existence of internment or "filtration" camps located in Grozny, Pyatigorsk, Georgievsk, Mozdok and Chernokozovo. It was alleged that people detained in such camps have no access to their relatives, medical doctors or lawyers and are especially at risk of enforced disappearance, ill-treatment and torture.

92. It was reported that people crossing between Chechnya and Ingushetia were subjected to control at the Russian military checkpoints in order to check their identity documents against computer records of suspected members of Chechen armed groups. Women and men are separated and their identity documents checked by soldiers. A number of men were detained following such checks and taken to "filtration" camps. The whereabouts of many of those believed held in such camps were said to remain unknown.

Rwanda

93. The Working Group transmitted five newly reported cases of disappearance to the Government, four of which reportedly occurred in July and August 1994 in Kigali. In spite of the intervention of the Ministry of Justice, the Public Prosecutor's Office and the Prefect of Kigali, the whereabouts of these persons remain unknown. Another case reportedly occurred in April 2000 and was sent under the urgent action procedure. It concerns a citizen of the Democratic Republic of the Congo who was reportedly arrested at the border between Rwanda and Uganda. In accordance with its methods of work, the Working Group also transmitted to the Government of Rwanda two cases which occurred in February 2000 and which were also transmitted to the Government of the United Republic of Tanzania (see para. 101).

Sri Lanka

94. The Working Group visited Sri Lanka in October 1999. The purpose of its visit was twofold: to follow up on the recommendations made by the Working Group during its visits in 1991 and 1992 and to identify efforts taken to minimize and resolve the problem of enforced

or involuntary disappearance, as well as to follow up on new developments. During 2000 the Government provided information on 6,297 outstanding cases of enforced disappearance. The Working Group decided to apply the six-month rule to those cases.

95. The Working Group transmitted 49 newly reported cases to the Government, 15 of which occurred in 2000 and 34 between 1990 and 1999; 16 cases were sent under the urgent action procedure. During the same period, the Working Group clarified 479 cases on the basis of information provided by the Government. In 457 cases death certificates were issued and compensation was paid to the relatives. In addition, 16 other missing persons were released, 3 other persons were found in prison and 3 persons were found living at liberty. Another case was clarified on the basis of information received from the source stating that the person concerned was found in detention; he had been held in incommunicado detention since 22 June 2000 by members of the Security Coordinating Unit in Vavuniya, which previously had denied having him in custody. The information provided by the Government regarding 14 other cases was not considered sufficient to consider them clarified.

96. Three of the newly reported cases concerned the mother and two brothers of a member of the Liberation Tigers of Tamil Elam (LTTE) who carried out a suicide bomb attack against an election rally at Jaela, near Colombo. The Government reported that, as ordered by the magistrate conducting the inquiries, they were flown to Colombo for a DNA test to identify the suicide bomber. After the DNA test, they had returned to their residence in Jaffna and were living at liberty. The source made no comments on the Government's reply during the six-month period and the cases were accordingly considered clarified. Other cases that occurred in 2000 took place in Batticaloa, Colombo, Sasthri Koolankulam, Trincomalee and Vavuniya. The victims were detained by the army, the navy , the Directorate of Military Intelligence, the Security Coordinating Unit and the People' s Liberation Organization of Tamil Eelam (PLOTE), an armed Tamil group opposed to the LTTE, allegedly acting with the acquiescence of the security forces.

97. New cases of enforced or involuntary disappearance have taken place in a setting of intensified armed conflict between government troops and the LTTE. The Working Group was informed that there has been an increase in reports of enforced disappearance since new emergency regulations were introduced by the President of the Republic in May 2000. Under these new regulations, published on 3 May 2000 and promulgated under section 40 of the Public Security Ordinance, members of the army and police officers have the right to arrest any person engaged in activities considered to be a threat to national security, to seize printing presses and to take possession of planes, ships and vehicles and other assets from the public for national security purposes. It was pointed out that wider powers given to the security forces under the new regulations and the removal of several earlier safeguards against arbitrary arrest and detention may have contributed to the increase.

Sudan

98. No new cases were transmitted by the Working Group to the Government. The Working Group clarified one case on the basis of information previously provided by the Government on which no objections were received from the source. The Government reported that the person concerned had been released. She had been arrested on suspicion of passing classified information to foreign agents.

Turkey

99. The Working Group transmitted three newly reported cases to the Government, which reportedly occurred in December 1999. The three cases were sent under the urgent action procedure. The cases concern persons who were detained in Istanbul by security officers and taken to an unknown destination.

Ukraine

100. One newly reported case was transmitted by the Working Group to the Government. It concerns the head of an Internet newspaper who disappeared in September 2000 in Kiev and who had previously complained that he and his colleagues at the newspaper had been repeatedly harassed by police officers because of their work as journalists.

United Republic of Tanzania

101. The Working Group transmitted two newly reported cases of disappearance to the Government, both of which occurred in 2000 and were sent under the urgent action procedure. The two cases concerned Rwandese nationals who were arrested in Kigoma, United Republic of Tanzania, by Tanzanian police officers and taken to the border with Rwanda. In accordance with the Working Group's methods of work, these cases were also transmitted to the Government of Rwanda (see para. 93) and were subsequently clarified. The source made no observations on the information provided by the Government of Rwanda that these two persons were found in prison. They had been visited by members of the National Commission for Human Rights to assess their situation and had the right to receive visits from their relatives whenever they wished. The Government of Rwanda also pointed out that the rights of these two persons would be respected in accordance with the Universal Declaration of Human Rights.

Uzbekistan

102. The Working Group transmitted one newly reported case to the Government under the urgent action procedure. The case occurred in July 2000 in Tashkent. It concerns a clerical worker who was detained by police officers in plain clothes and taken to an unknown destination. He had previously been detained by the police and released without being charged after he refused to incriminate himself by confessing to anti-constitutional activities.

Venezuela

103. The Working Group transmitted four newly reported cases of disappearance to the Government of Venezuela, which occurred in December 1999 and were sent under the urgent action procedure. The four cases concern persons who were detained in Caraballeda, Tucacas and Tarigua in Vargas State by a group of army paratroopers and who were transferred to the custody of the Directorate of Intelligence and Prevention Services. The Government reported that once responsibility had been determined, those responsible would be charged with the offences of unlawful deprivation of liberty (art. 177 of the Criminal Code), offences against

human dignity (art. 182) and unlawful entry to a person's home (art. 185); enforced disappearance does not exist as an offence in the Penal Code, although it is expressly prohibited by the Venezuelan Constitution.

Yugoslavia

104. The Working Group transmitted to the Government one newly reported case. It concerns a former President of Serbia who disappeared in August 2000 in Belgrade.

Zimbabwe

105. The Working Group transmitted one newly reported case of disappearance to the Government. It concerns a polling officer for the opposition Movement for Democratic Change who was abducted in June 2000 in Bulawayo in the presence of his wife and children. Since then, his whereabouts are unknown.

III. COUNTRIES REGARDING WHICH THE WORKING GROUP RECEIVED COMMENTS FROM GOVERNMENTS OR NON-GOVERNMENTAL ORGANIZATIONS

Angola

106. No new cases of disappearance were transmitted by the Working Group to the Government. Representatives of the Government met with the Working Group during its sixty-first session and provided information concerning three of the four outstanding cases. According to the Government the three persons had disappeared in troubled circumstances of internal armed conflict and were certainly dead. Certificates of presumption of death issued after judicial procedures before the competent authorities were submitted. The Working Group decided to apply the six-month rule to these cases.

Belarus

107. No new cases of disappearance were transmitted to the Government during 2000, but two cases were transmitted in 1999 after last year's report (E/CN.4/2000/64 and Add.1) was drafted. The Government provided information on the three outstanding cases. According to the information received, on 20 September 1999, the Minsk State Prosecutor's Office started an investigation into the disappearance of former member of the Supreme Soviet V.I. Gonchar and businessman A.S. Krasovsky in order to determine their whereabouts. The investigations would also seek to ascertain whether their disappearances had been staged (Mr. Gonchar's in connection with his political activities or Mr. Kraskovsky's in connection with the financial operations of his company), whether they had been abducted for ransom, or in order to steal the vehicle.

108. The Government reported that no evidence had been found of involvement by the Belarusian secret service in the disappearances of Mr. Gonchar, Mr. Krasovsky, or the third individual, Mr. Zakharenko, nor does the Procurator's Office or the Ministry of Internal Affairs yet have any evidence suggesting that the missing men were the victims of a crime.

Dominican Republic

109. The Government provided the Working Group with information regarding the two outstanding cases. In 1997, the Government had reported that the person concerned had a long criminal record and had left the country illegally. Since then, his relatives had not made any further complaints or allegations. In the other case, concerning a journalist, political activist and lecturer at the Autonomus University of Santo Domingo, the Government reported that it was in the process of seeking an amicable settlement in the Inter-American Commission on Human Rights with the relatives of the missing person.

Honduras

110. Special concern was expressed by several non-governmental organizations regarding acts of intimidation, reprisal and harassment against the relatives of victims of enforced or involuntary disappearances and human rights defenders, particularly against members of the Committee of Relatives of Detainees and Disappeared Persons of Honduras. The Chairperson and the General Coordinator of the Committee have achieved commendable progress with a number of court cases concerning forced disappearances. The NGOs also alleged that the investigations are yielding significant evidence of the involvement of high Honduran military officials and intelligence officers in the perpetration of disappearances and other human rights violations.

Thailand

111. The Working Group was informed that the fate and whereabouts of dozens of people who were recorded as missing during the military's violent suppression of the May 1992 pro-democracy demonstrations in Bangkok have never been revealed. It was said that during the suppression of these demonstrations, from 17 to 20 May 1992, more than 52 persons were killed, dozens detained and later disappeared, and nearly 700 others injured.

112. It was alleged that intimidation, apprehension and fear have discouraged many witnesses, and even relatives and friends of the disappeared persons, from meeting and testifying before the agencies set up to receive complaints. In addition, it was alleged that the lack of serious co-operation among concerned officials from the Department of Social Welfare of the Ministry of the Interior and from the Ministry of Defence has resulted in the information not having been collected systematically. This has affected the progress of the investigation.

113. Lastly, it was said that the Office of the Prime Minister has refused to disclose a reportedly serious and comprehensive report on the events prepared by a commission from the Ministry of Defence stating that the Official Information Act allows the authorities to conceal certain information for security reasons. The report is said to contain precise and concrete information both on the victims and about the forces responsible for the disappearances. However, according to the information received, only an eight-page general summary without concrete information has been published.

114. On 23 November 2000, the Working Group received a letter from the Government in which it stated that the allegations received by the Working Group were unfounded. Forty-four people had died in the incident, 48 persons disappeared, 493 people suffered injuries and 731 people had their property damaged. These figures were much lower than the alleged figures. The Government had promptly provided assistance to the people affected by the incident and their families. The Department of Social Welfare had provided logistical and financial assistance. Social welfare officials had visited the injured at their homes and in hospitals. Financial assistance included scholarship funds for the children of people who lost their lives during the incident. Up to date, almost 100 million baht had been provided to the relatives of those who died or disappeared during the incident.

115. The Government further reported that, in accordance with the Information Act, three investigative reports relating to the May 1992 incident had been published in their totality, namely the investigative report of the commission headed by General Pichit Kullawanich totalling 60 pages, the fact-finding report on the operations of defence officers in the incident totalling 114 pages, and the investigative report on the incident totalling eight pages.

Uruguay

116. The Government reported that on 9 August 2000 the Office of the President of the Republic established the Commission for Peace charged with receiving, analysing, sorting and compiling information on enforced disappearances occurring during the de facto regime. The Commission will have a period of 120 days, with the possibility of extension, to complete its work. It shall then draw up a concluding report, including suggestions for appropriate legislative measures with provisions concerning redress and civil status, as well as an individual summary of each case of missing detainee brought to its attention.

IV. COUNTRIES FROM WHICH THE WORKING GROUP RECEIVED NO INFORMATION OR COMMENTS

117. During the period under review, no new cases of disappearances were transmitted by the Working Group to the Governments of the following countries: Afghanistan, Bahrain, Bangladesh, Bolivia, Bosnia and Herzegovina, Brazil, Burkina Faso, Bulgaria, Cambodia, Croatia, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Gambia, Greece, Guinea, Haiti, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kazakhstan, Kuwait, Lao People's Democratic Republic, Libyan Arab Jamahiriya, Malaysia, Myanmar, Mauritania, Mozambique, Nigeria, Paraguay, Philippines, Romania, Saudi Arabia, Seychelles, South Africa, Syrian Arab Republic, Tajikistan, Togo, Uganda, Yemen and Zambia. No new cases were transmitted to the Palestinian Authority.

118. During the period under review, no new information was received from these Governments, or from the Palestinian Authority, with regard to the outstanding cases. The Working Group is therefore unable to report on the fate and whereabouts of the persons concerned.

V. CONCLUSIONS AND RECOMMENDATIONS

119. The Working Group was the first of the thematic mechanisms created by the Commission on Human Rights to serve as a channel of communication between victims, families and non-governmental organizations on the one hand, and Governments on the other. Since its establishment as a pioneering body in 1980, the Working Group has transmitted more than 49,500 cases to Governments. Although some 3,500 cases have been clarified, around 46,000 cases are still outstanding. New cases continue to be reported from as many as 29 countries.

120. It is crucial for the countries that have a large backlog of outstanding cases to make consistent and effective efforts to identify the fate and whereabouts of the disappeared persons. At the same time, in agreement with the relatives of the missing persons, methods are being explored for the clarification of cases, including acknowledgement of the responsibility of the State and the award of appropriate compensation. The Working Group renews its offer of cooperation to the parties concerned.

121. Bearing in mind that the effectiveness of its mandate depends on the cooperation received from Governments, especially of those countries in which enforced disappearance is an ongoing phenomenon, the Working Group attaches the greatest importance to keeping open channels of communication and dialogue with all Governments, some of which have sent high-level representatives to the Working Group's sessions.

122. The Working Group wishes to emphasize that it is absolutely essential to its activities to continue to receive cooperation from non-governmental organizations concerned with the problem of enforced disappearances. Their activities deserve full support considering that they are a key element in the clarification of cases. The Working Group expresses its appreciation for the cooperation and support it has received from these organizations. At the same time, it notes with deep concern that in some countries these organizations suffer harassment and persecution which prevent them from fulfilling their duties. The Working Group calls upon the Governments concerned to take all measures to guarantee these organizations and their members full protection.

123. The Working Group draws the attention of all Governments to the fact that the full implementation of the Declaration on the Protection of All Persons from Enforced Disappearance is crucial for the prevention and termination of this human rights violation. In particular, the Working Group wishes to stress the importance of measures aimed at reducing periods of administrative detention to an indispensable minimum, at establishing accessible and up-to-date registers of detainees open to the public, and at guaranteeing access and appropriate information to the relatives, lawyers and medical doctors of persons deprived of their liberty.

124. The Working Group stresses once again that impunity is one of the main causes - probably the root cause - of enforced disappearance and at the same time one of the major obstacles to clarifying past cases. It is very important that all States comply with the Declaration, which obliges them to make all acts of enforced disappearance an offence under domestic criminal law; to investigate promptly, thoroughly and impartially any allegation of enforced disappearance and to bring the perpetrators to justice. In addition, the Working Group

strongly urges all States to comply with article 18, which establishes that perpetrators of enforced disappearance shall not benefit from any special amnesty law or similar measure that might have the effect of exempting them from criminal proceedings or sanctions.

125. It is crucial that, in accordance with the Declaration, Governments take effective legislative, administrative and judicial measures aimed at preventing the occurrence of disappearances in the future. Although article 4 of the Declaration is very clear and applies to all States, i.e. not only to those in which enforced disappearances actually take place, in very few countries have the criminal laws been amended in order to ensure that acts of enforced disappearance as such are offences punishable by appropriate penalties. The enactment and effective implementation of such legal measures would be a major step forward in preventing acts of enforced disappearance.

126. The Working Group wishes to express once again its sincere appreciation to its secretariat for its dedication in the pursuance of the difficult tasks it has to undertake. The Working Group avails itself of this opportunity to appeal, once again, to the Commission on Human Rights to meet the needs of the Group by allocating appropriate resources to it, considering that the number of secretariat staff has been dramatically reduced during the last few years to only one Professional and one General Service staff member, both working on a part-time basis.

VI. ADOPTION OF THE REPORT

127. On 24 November 2000, the present report was adopted by the following members of the Working Group on Enforced or Involuntary Disappearances:

Ivan Tosevski (Chairman-Rapporteur)	(The former Yugoslav Republic of Macedonia)
Agha Hilaly	(Pakistan)
Manfred Nowak	(Austria)
J. 'Bayo Adekanye	(Nigeria)

(Mr. Diego García Sayán (Peru) was not present at the sixty-second session).

Separate opinion of Manfred Nowak

128. "For the reasons stated in my joint separate opinion (together with Diego García Sayán) to the last annual report of the Working Group (E/CN.4/2000/64, para. 145), I wish again to express my strong objections to the format and structure of the present report which attempts to comply with the 32-page limit requested by the General Assembly. The present report neither adequately reflects the situation of enforced disappearances throughout the world nor the efforts of the Working Group to clarify the fate and whereabouts of some 50,000 disappeared persons in more than 70 countries."

Annex I

STATISTICAL SUMMARY: CASES OF ENFORCED OR INVOLUNTARY DISAPPEARANCES REPORTED TO THE WORKING GROUP BETWEEN 1980 AND 2000

Country	Total	Clarified	Outstanding
Afghanistan	2	0	2
Algeria[a]	1 087	13	1 074
Angola	7	3	4
Argentina	3 455	78	3 377
Bahrain	1	1	0
Bangladesh	1	0	1
Belarus	3	0	3
Bolivia	48	20	28
Brazil	60	52	8
Bulgaria	3	3	0
Burkina Faso	3	0	3
Burundi	52	0	52
Cambodia	2	0	2
Cameroon	9	0	9
Chad	13	1	12
Chile	912	69	843
China	95	65	30
Colombia[b]	1 103	258	845
Congo	31	0	31
Dem. Rep. of the Congo	51	9	42
Dominican Republic	4	2	2
Ecuador	22	15	7
Egypt	20	8	12
El Salvador	2 661	391	2 270
Equatorial Guinea	3	0	3
Eritrea	34	0	34
Ethiopia	114	2	112
Gambia	1	1	0
Greece	3	0	3
Guatemala	3 151	169	2 982
Guinea	28	7	21
Haiti	48	10	38
Honduras	199	70	129
India	338	50	288
Indonesia	637	76	561
Iran (Islamic Rep. of)	516	15	501
Iraq	16 514	130	16 384

Country	Total	Clarified	Outstanding
Israel	3	1	2
Jordan	1	0	1
Kazakhstan	2	2	0
Kuwait	1	0	1
Lao People's Democratic Rep.	1	0	1
Lebanon	306	8	298
Libyan Arab Jamahiriya	4	1	3
Malaysia	2	1	1
Mauritania	1	0	1
Mexico[c]	363	133	214
Morocco	247	134	113
Mozambique	2	0	2
Myanmar	2	2	0
Namibia	1	0	1
Nepal	51	5	46
Nicaragua	234	131	103
Nigeria	6	5	1
Pakistan	80	5	75
Paraguay	23	20	3
Peru	3 006	638	2 368
Philippines	658	157	501
Romania	1	1	0
Russian Federation	211	1	210
Rwanda	21	2	19
Saudi Arabia	3	1	2
Seychelles	3	0	3
South Africa[d]	11	5	0
Sri Lanka	12 277	595	11 682
Sudan	266	5	261
Syrian Arab Republic	35	27	8
Tajikstan	8	2	6
Thailand	2	0	2
Togo	11	1	10
Tunisia	15	15	0
Turkey	177	84	93
Turkmenistan	2	2	0
Uganda	61	7	54
Ukraine	4	0	4
United Arab Emirates	1	1	0
United Republic of Tanzania	2	2	0

Country	Total	Clarified	Outstanding
Uruguay	31	8	23
Uzbekistan	11	0	11
Venezuela	14	4	10
Yemen	150	1	149
Yugoslavia	1	-	1
Zambia	1	1	0
Zimbabwe	1	0	1
Palestinian Authority	1	0	1

[a] Seven cases were deleted for Algeria owing to duplication, in accordance with the decision of the Working Group at its fifty-seventh session.

[b] There were actually 28 cases sent under the urgent action procedure to the Government of Colombia during 1999 (not 27, as stated in document E/CN.4/2000/64).

[c] Sixteen cases have been discontinued in Mexico.

[d] Six cases have been discontinued in South Africa.

Annex II

DECISIONS ON INDIVIDUAL CASES TAKEN BY THE WORKING GROUP DURING 2000

Country	Cases which allegedly occurred in 2000	Cases transmitted to the Government during 2000		Clarifications by:		Discontinued cases
		Urgent actions	Normal actions	Government	Non-governmental sources	
Algeria	3	-	217	2	-	-
Argentina	2	2	-	-	-	-
Belarus	-	2	-	-	-	-
Burundi	-	-	1	-	-	-
Cameroon	-	-	3	-	-	-
Chad	-	1	-	-	-	-
Chile	-	-	-	4	-	-
China	-	-	-	2	-	-
Colombia	15	15	-	22	-	-
Congo	-	-	31	-	-	-
Democratic Republic of the Congo	1	1	-	-	1	-
Ethiopia	-	-	1	-	-	-
India	21	-	27	3	-	-
Indonesia	29	29	8	-	-	-
Lebanon	-	-	18	-	-	-
Mexico	2	4	-	9	-	2
Morocco	1	1	2	-	-	-
Namibia	-	-	1	-	-	-
Nepal	3	5	30	1	1	-
Pakistan	1	1	-	-	-	-
Peru	2	2	-	-	2	-
Russian Federation	18	2	16	-	1	-
Rwanda	1	1	4	-	-	-
Sri Lanka	15	16	33	479	1	-

Country	Cases which allegedly occurred in 2000	Cases transmitted to the Government during 2000		Clarifications by:		Discontinued cases
		Urgent actions	Normal actions	Government	Non-governmental sources	
Sudan	-	-	-	1	-	-
Turkey	-	3	-	-	-	-
Ukraine	1	1	-	-	-	-
United Republic of Tanzania	2	2	-	2	-	-
Uzbekistan	1	1	-	-	-	-
Venezuela	-	4	-	-	-	-
Yugoslavia	1	1	-	-	-	-
Zimbabwe	1	1	-	-	-	-

Annex III

COMMENTS ON THE DRAFT INTERNATIONAL CONVENTION ON THE PROTECTION OF ALL PERSONS FROM ENFORCED DISAPPEARANCE

The Working Group welcomes the efforts of the Sub-Commission on the Promotion and Protection of Human Rights to prepare this draft and appreciates that the draft international convention contains many of the recommendations which the Working Group has for many years submitted to the Commission on Human Rights and Governments.

The draft international convention is a very comprehensive and carefully drafted document based on, but at the same time clearly going beyond the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984 and the Declaration on the Protection of All Persons from Enforced Disappearances of 1992 ("the Declaration"). It consists of a preamble and three parts. Since the Working Group agrees with the general approach and most of the provisions of the draft international convention, it will restrict its comments to those provisions which merit its attention.

Part I contains the substantive provisions and focuses primarily on the individual criminal responsibility of the perpetrators of enforced disappearance as well as on obligations of States parties to prevent such crimes. While the preamble recognizes, similarly to article 1 (1) of the Declaration, that any act of enforced disappearance constitutes an "offence to human dignity", article 3 (1) stipulates that the systematic or massive practice of enforced disappearance constitutes a "crime against humanity". This change as compared to the Declaration correctly takes into account recent developments in international law, notably the Inter-American Convention on Forced Disappearance of Persons of 1994 and the Rome Statute of the International Criminal Court of 1998, both of which should, in the opinion of the Working Group, be referred to in the preamble.

The principle of universal jurisdiction (art. 6 (1) (b) in conjunction with arts. 7 and 13) is drafted in a much clearer manner than in comparable treaties, including the Convention against Torture. Some provisions of Part I seem somewhat repetitive, for example the obligation of States parties to grant their investigating authorities full access to places where victims of forced disappearance might be held, to be found in articles 11 (4), 20 (2) and 21 (6).

The principle of non-refoulement in article 15 seems to go beyond existing international law by prohibiting the expulsion or extradition of a person to a State where enforced disappearance or "any other serious human rights violation" might be inflicted on him or her. This expression seems fairly vague and might be interpreted to include also violations of human rights such as personal liberty, freedom of expression or procedural and other guarantees presently not covered by the non-refoulement principle.

The Working Group particularly welcomes the obligation of States parties pursuant to article 18 to prevent and punish the abduction of children whose parents are victims of enforced disappearance and of children born during their mother's disappearance. Together with the

general rule of returning such children to their family of origin, the explicit possibility of annulling any adoption which has arisen from an enforced disappearance, and the principle of the best interest of the child taken from the Convention on the Rights of the Child, this obligation provides an appropriate remedy to one of the most serious phenomena occurring in the context of enforced disappearances.

In article 22 (5), the draft international convention stipulates the obligation of States parties to establish competent national authorities to carry out preventive visits to places of detention, similar to those envisaged in the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of 1987 and the draft optional protocol to the United Nations Convention against Torture. The Working Group proposes that such regular visits be carried out by national authorities which are not only competent but also independent of the executive branch.

Finally, the Working Group wishes to express its concern at the formulation used in article 23. What does it mean that States parties shall guarantee that detainees are released "in conditions in which their physical integrity and their ability fully to exercise their rights are assured"?

Part II contains the international monitoring provisions, i.e. the establishment of a committee against forced disappearance charged with carrying out five different monitoring tasks: the examination of States parties' reports and inter-State and individual communications, as well as the carrying out of the inquiry and tracing procedures.

The Working Group remains doubtful about the wisdom of creating a further treaty monitoring body. It would have preferred if these tasks were assigned to one of the existing treaty monitoring bodies, in particular the Committee against Torture or the Human Rights Committee. If, however, one wishes to create another body, one should take into account the negative experience of bodies with only 10 members, such as the Committee against Torture or the Committee on the Rights of the Child. The relevant provision in article 25 (1) should therefore provide for at least 18 members.

In the provisions regulating the nomination and election of committee members, the Working Group recommends that the possibility for States parties to nominate persons other than their own nationals not be excluded. The combined reading of article 25 (2) and (5) leads to the unfortunate conclusion that an excellent Committee member cannot be re-elected if his or her own Government (which might have changed in the meantime) refuses to re-nominate him or her. Similarly, article 25 (6), in the opinion of the Working Group, seems to pay too much attention to the right of individual States parties to nominate or even "appoint" their own experts. There is no reasonable justification why, in the event of the death or resignation of a committee member, only the State of his or her nationality should have the power to nominate a successor.

The draft international convention does not establish optional procedures. On the other hand, article 36, which prohibits any reservation to Part I, seems to allow for the possibility of "opting out" of four of the five procedures (not the tracing procedure in article 31), including the

State reporting procedure in article 27. In other words: any State party could make a reservation to the establishment and procedures of the committee unless such a reservation "would inhibit the operation of any of the bodies established by this Convention". This rather peculiar provision is fairly unclear and needs further interpretation. In view of the highly sensitive nature of treaty body interpretation of the power of States parties to make reservations, the Working Group proposes the deletion of this provision in article 36 and the prohibition of reservations altogether. If, for political reasons, there should be a need for one or another optional procedure, this would be better stated in the respective articles.

The State reporting procedure in article 27 envisages only first (initial) and supplementary reports at the request of the committee, i.e. it rightly avoids the imposition of periodic reporting obligations. At the same time, it introduces the interesting idea of combining the examination of first reports with a visit to the country. The Working Group wonders why such a possibility is not envisaged for the examination of supplementary reports as well.

The inter-State communication procedure in article 29, notwithstanding minor improvements, still seems to follow the fairly inefficient model of articles 11 to 13 of the International Convention on the Elimination of All Forms of Racial Discrimination of 1965 and articles 41 and 42 of the International Covenant on Civil and Political Rights of 1966. The Working Group cannot understand why one would wish, 10 years after the end of the cold war, to restrict the powers of the committee to the exercise of a mere arbitration and conciliation function and the submission of only a brief final report containing the facts and submissions of the States parties, as envisaged in article 29 (h) (ii), rather than to authorize it to decide on the alleged violations as in the individual communication procedures or in comparable inter-State complaints procedures under the European Convention on Human Rights or relevant treaties of the International Labour Organization.

With respect to the individual communication procedure, the Working Group particularly welcomes the right of groups and non-governmental organizations to submit communications as stipulated in article 30 (1) and the power of the Committee, envisaged in article 30 (4), to organize hearings and investigative missions. The traditional United Nations terminology dating from the time of the cold war ("communications" and "views" rather than "complaints" or "petitions" and "decisions") sounds, however, somewhat outdated in a human rights treaty of the twenty-first century.

Article 31 regulates the traditional tracing procedure as it is currently carried out by the Working Group. Although this procedure is primarily of a humanitarian nature, as stipulated in article 31 (4), it may overlap or even come into conflict with the inquiry procedure in article 28. This is, however, a general problem which arises if one body is entrusted with both monitoring and humanitarian functions. The Working Group wishes to point out that it might be wise to specify whether this tracing procedure also applies to international and non-international armed conflicts (in view of the special competencies of the International Committee of the Red Cross under the Geneva Conventions) as well as to disappearances allegedly carried out by non-State actors.

In conclusion, the Working Group wishes to reiterate its gratitude to the Sub-Commission for having prepared such an excellent draft and expresses its hope that the Commission on Human Rights will speedily finalize the drafting process. It welcomes the idea of the Commission, as expressed in paragraph 9 of its resolution 2000/37 of 20 April 2000, to set up an inter-sessional working group to consider the draft convention. Members of the Working Group are, of course, happy to make their expertise available to this inter-sessional working group if so requested by the Commission.

The Chairman of the Working Group wishes to add his personal opinion that in view of the highly political nature of forced disappearances, he considers that it would be more efficient to strengthen the Working Group, as the relevant thematic mechanism of the Commission on Human Rights, than to adopt another legally binding human rights treaty with quasi-judicial monitoring procedures.